

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FT MYERS DIVISION**

IN RE:

Yvette Phanor

Debtor(s).

**CASE NO. 9:13-bk-16083-FMD
CHAPTER 7**

MOTION FOR RELIEF FROM STAY

**NOTICE OF OPPORTUNITY TO
OBJECT AND FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 21 days from the date set forth on the proof of service attached to this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at Sam M. Gibbons US Courthouse, 801 N. Florida Ave, Suite 555, Tampa, FL 33602 and serve a copy on the Movant's attorney, Ronald R Wolfe & Associates, P.L., P.O. Box 25018, Tampa, Florida 33622-5018.

If you file and serve an objection within the time permitted, the Court may schedule and notify you of a hearing, or the Court may consider the objection and may grant or deny the relief requested without a hearing. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, SUNTRUST BANK ("Movant"), its successors and/or assigns, seeking modification of the automatic stay pursuant to § 362(d)(1) and (d)(2) of the Bankruptcy Code and would show the Court as follows:

1. On December 09, 2013, Yvette Phanor ("Debtor" as used herein shall include

both Debtors in a joint case), filed for relief under Chapter 7 of the U.S. Bankruptcy Code.

2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362, and Fed.R.Bankr.P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.

3. On February 25, 2000, Yolette D. Vital, executed and delivered a Promissory Note payable to the order of SUNTRUST BANK in the principal amount of \$66,800.00 (the "Note"). To secure the payment of the Note, Yolette D. Vital executed and delivered a Mortgage (the "Mortgage"). A copy of the Mortgage, together with the Note and Assignments as applicable, are attached hereto as Composite Exhibit "A".

4. Movant is entitled to enforce the Note and Mortgage.

5. The Debtor has not declared the following described property as exempt:

LOT 6, BLOCK 1408, PORT CHARLOTTE SUBDIVISION, SECTION TWENTY SEVEN, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGES 20A THRU 20F, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

a/k/a 21472 SHANNON AVENUE, PORT CHARLOTTE, FL 33952.

6. The 341 Meeting is scheduled to be held on January 14, 2014.

7. The Debtor is in default. The last payment received was applied to the December 1, 2012 payment.

8. As set forth in the Affidavit attached to this Motion, Movant's indebtedness is in excess of \$62,603.63 and its indebtedness continues to accrue interest. Said Affidavit is attached hereto as Composite Exhibit "A".

9. According to the Debtor's Schedule D, the value of the property is \$58,652.00.

10. When considering other liens in the amount of \$720.02, as set forth in the Debtor's Schedule D, and after adding legal fees, carrying costs, closing charges, and realtor commissions, it is evident that there is little or no equity for the benefit of other creditors. Moreover, Movant contends that any equity over and above the indebtedness, should any exist, does not constitute adequate protection as contemplated by the U.S. Bankruptcy Code.

11. The Debtor has failed to timely meet and satisfy the payment requirements with respect to the obligations set forth in the Note. Movant's indebtedness continues to accrue interest while receiving no payments to protect it against the erosion of its collateral position.

Furthermore, Movant is not otherwise being adequately protected while the Debtor continues to

enjoy the benefits of the collateral.

12. The Debtor filed a Chapter 7 case and therefore, no reorganization is contemplated.
13. If Movant is not permitted to enforce its security interest in the collateral or provided with adequate protection, it will suffer irreparable injury, loss and damage.
14. Movant requests this Court to allow future communications with the Debtor in order to offer and provide information in regard to a potential Forbearance Agreement, Loan Modification, Refinance Agreement or other Loan Workout/Loss Mitigation Agreement, and furthermore, to enter into such agreement with the Debtor. Movant acknowledges that such communications shall be limited and it shall not enforce or threaten to enforce any personal liability against the Debtor that is discharged in this bankruptcy.

15. Once the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or protect the collateral; therefore, Movant requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

16. Movant has incurred attorney's fees in the amount of \$750.00 and costs in the amount of \$176.00 as a result of the necessity of filing this Motion. Said attorney's fees and costs may be recoverable pursuant to state law and the mortgage documents.

WHEREFORE, Movant prays that this Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Movant to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, and to have such other and further relief as is just.

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By: /s/ REKA BEANE
Reka Beane
Florida Bar No. 0052919
ATTORNEY FOR SUNTRUST BANK

B13018056

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion for Relief from Stay and any and all Exhibits referenced therein have been furnished by regular U. S. Mail to all parties listed below on this 31 day of December, 2013.

Yolette Phanor
21472 Shannon Avenue
Port Charlotte, FL 33952

I HEREBY CERTIFY that a copy of the foregoing Motion for Relief from Stay and any and all Exhibits referenced therein have been furnished by Electronic Mail to all parties listed below on this 31 day of December, 2013.

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The Dellutri Law Group PA
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By: /s/ REKA BEANE
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